

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7128 of 2005

Between:

Buddana Srisaibabu, S/o.B.Visweswara rao,
R/o.Kakinada, East Godavari District.

..... PETITIONER

AND

- 1 Municipal Corporation of Kakinada, rep.by its Commissioner, Kakinada, East Godavari Dist.
- 2 The Municipal Health officer, Kakinada Municipal Corporation, Kakinada, E.G.District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring notice dated 22-02-2005 issued by the 2nd respondent and the action of the 2nd Respondent in directing the petitioner to shift the poultry and chicken center to the far of place without giving any opportunity and without conducting any enquiry on the basis of the explanation submitted by the petitioner on 18-03-2005 as illegal, arbitrary, violative of principles of natural justice without jurisdiction and unconstitutional.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondents: MR.S.NAGESWARA REDDY

The Court at the stage of admission made the following:

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ORDER:

The petitioner was served with a notice dated 22-02-2005, issued by the second respondent-Municipal Health Officer, under Section 108 and 134 of A.P. Public Health Act, alleging that the poultry farm being run by the petitioner in a residential area is causing health problems to the residents of the locality and therefore calling upon him to remove the same from the existing premises.

The petitioner states that all the allegations made in the notice are false and without any basis and accordingly he submitted an explanation on 18-03-2005. However, the respondents have failed to consider the explanation and in the meanwhile taking steps to dispossess him from the premises in question. Hence, this writ petition.

Having heard the learned counsel for both parties and having regard to the fact that the petitioner has submitted his explanation denying the allegations made by the respondents, I am of the view that it would be appropriate for the respondent to consider the same and pass appropriate orders before initiating any action as proposed under the impugned notice.

Accordingly, the writ petition is disposed of with a direction to the respondents to consider the explanation of the petitioner dated 18-03-2005 which is filed at page 10 of the material papers filed in this writ petition and pass appropriate orders, in accordance with law and communicate the same to the petitioner. Till such time, there shall be a direction to the respondents not to interfere with the possession of the petitioner in respect of the premises in question.

The writ petition is accordingly disposed of. No order as to costs.

G. ROHINI, J

Dated: 01-04-2005

LSK

ASSISTANT REGISTRAR

To

1. The Commissioner, Municipal Corporation of Kakinada, East Godavari Dist.
2. The Municipal Health officer, Kakinada Municipal Corporation, Kakinada,
E.G.District.
3. Two C.D. copies.